



January 28, 2005

HOUSE BILL No. 1023

DIGEST OF HB 1023 (Updated January 26, 2005 7:17 pm - DI 14)

Citations Affected: IC 6-3; IC 10-16; IC 20-12; noncode.

Synopsis: National Guard tuition supplement grant and reemployment rights. Requires the employer of an individual called to active duty in the Indiana National Guard, when the individual returns from the active duty, to reemploy the individual in the same position or a similar position for a period of time equal to the time the individual served on active duty. Provides for a one-time deduction from the employer's adjusted gross income of \$500 for compensation to the individual for the period or reemployment. Provides that income earned by a member of the National Guard while deployed overseas is exempt from consideration as income in determining eligibility for the Frank O'Bannon grant program administered by the state student assistance commission. Extends the eligibility period for the National Guard tuition supplement program for a member of the National Guard called to active duty outside Indiana after September 11, 2001. Provides that the extension is equal to the period of active duty.

Effective: January 1, 2002 (retroactive); upon passage.

Koch, GiaQuinta, Heim, Welch

January 4, 2005, read first time and referred to Committee on Public Policy and Veterans Affairs.
January 27, 2005, amended, reported — Do Pass.

HB 1023—LS 6106/DI 102+



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January 28, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1023

A BILL FOR AN ACT to amend the Indiana Code concerning military affairs.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2002 (RETROACTIVE)]: **Sec. 20. (a) This section**
4 **applies to an employer that reemploys an employee under**
5 **IC 10-16-7.5.**

6 **(b) An employer that reemploys an employee who was called to**
7 **active duty in the Indiana National Guard is entitled to a one (1)**
8 **time deduction from the employer's adjusted gross income equal**
9 **to the lesser of:**

10 **(1) the employee's compensation actually paid by the**
11 **employer for the period of time specified in IC 10-16-7.5-8; or**

12 **(2) five hundred dollars (\$500).**

13 SECTION 2. IC 10-16-7.5 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 JANUARY 1, 2002 (RETROACTIVE)]:

16 **Chapter 7.5. National Guard Employment Rights**

17 **Sec. 1. This chapter applies to a person called to active duty**

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after September 11, 2001.

Sec. 2. As used in this chapter, "active duty" means full-time service in the national guard for a period that exceeds thirty (30) consecutive days in a calendar year.

Sec. 3. As used in this chapter, "employee" means an individual employed or permitted to work or perform any service for remuneration under a contract for hire, written or oral, by an employer in any occupation.

Sec. 4. As used in this chapter, "employer" means a person who employs at least twenty-five (25) employees in Indiana, including the state and political subdivisions of the state. The term does not include the United States or a corporation wholly owned by the United States.

Sec. 5. As used in this chapter, "national guard" refers only to:

- (1) the Indiana army national guard; and
- (2) the Indiana air national guard.

Sec. 6. As used in this chapter, "person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, or a governmental entity.

Sec. 7. As used in this chapter, "political subdivision" has the meaning set forth in IC 6-3.5-2-1.

Sec. 8. (a) When an employee who was called to active duty is discharged or released after the active duty, the employer of the employee shall reemploy the employee for:

- (1) a period of employment required by the federal Uniform Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 through 38 U.S.C. 4330; and
- (2) an additional period equal to the extent to which the time the employee was on active duty exceeds the period of time determined under subdivision (1).

(b) Reemployment under subsection (a) shall be covered by the provisions of the federal Uniform Services Employment and Reemployment Rights Act.

(c) The period of reemployment under subsection (a) begins on the first day the employee reports to work for the employer after the employee's discharge or release from active duty.

Sec. 9. An employer who reemploys an employee under section 7 of this chapter is entitled to a deduction from the employer's adjusted gross income under IC 6-3-2-20.

Sec. 10. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of the national guard under federal law.

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SECTION 3. IC 20-12-21-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) In addition to the duties described in section 5(a) of this chapter, the commission shall do the following:

- (1) Prepare and supervise the issuance of public information concerning all of the commission's programs.
- (2) Prescribe the form and regulate the submission of applications for all of the commission's programs.
- (3) Determine the amounts of grants and scholarships.
- (4) Determine eligibility for grants and scholarships.
- (5) Receive federal funds made available to the commission for awards, grants, and scholarships, and disburse these funds in the manner prescribed by federal law.

(b) In addition to the powers described in section 5(b) of this chapter, the commission may do the following:

- (1) Accept gifts, grants, devises, or bequests for the purpose of providing grants, awards, scholarships, loans, or other forms of financial aid to students attending approved institutions of higher learning.
- (2) Enter into contracts, subject to IC 4-13-2, that the commission determines are necessary to carry out the commission's functions.
- (3) Provide administrative or technical assistance to other governmental or nongovernmental entities if the provision of this assistance will increase the number and value of grants, awards, scholarships, or loans available to students attending approved institutions of higher learning.

(c) When the commission receives an offer of a gift, grant, devise, or bequest under subsection (b)(1), the commission may accept stipulations on the use of the donated funds. In this case, sections 7(d) and 17 of this chapter do not apply. Before accepting a gift, grant, devise, or bequest, the commission shall determine that the purposes for which a donor proposes to provide funds are:

- (1) lawful;
- (2) in the state's best interests; and
- (3) generally consistent with the commission's programs and purposes.

Whenever the commission agrees to stipulations on the use of donated funds under this subsection, the commission and the donor shall, subject to approval by the state budget agency and the governor or the governor's designee, execute an agreement.

(d) Whenever the commission agrees to provide administrative or technical assistance under subsection (b)(3), the commission and the

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party to whom the assistance is to be provided shall execute an agreement specifying:

- (1) the assistance that is to be provided; and
- (2) the charges, if any, that are to be assessed by the commission for providing this assistance.

The commission may waive charges for administrative or technical assistance under this subsection if the commission determines that a waiver is in the best interest of the state. Agreements to provide assistance under this subsection must be approved by the budget agency and the governor or the governor's designee.

(e) The commission shall exercise its functions without regard to an applicant's race, creed, sex, color, national origin, or ancestry.

(f) This subsection applies to a person called to active duty after September 11, 2001. As used in this subsection, "active duty" means full-time service in the national guard (as defined in IC 10-16-1-13) that exceeds thirty (30) consecutive days in a calendar year. When determining financial eligibility under subsection (a)(4) for a Frank O'Bannon grant, which includes grants formerly designated as the higher education award and the freedom of choice award, the commission may not consider any salary for service on active duty that is received by a member of the national guard who is called to active duty.

SECTION 4. IC 20-12-74-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) This section applies to a person called to active duty after September 11, 2001.**

(b) As used in this section, "active duty" means full-time service in the national guard (as defined in IC 10-16-1-13) that exceeds thirty (30) consecutive days in a calendar year.

(c) A person who:

- (1) is called to active duty; and**
- (2) meets the requirements of subsection (d);**

is entitled to an extension of time under subsection (e) to renew a tuition scholarship awarded under section 7(a) of this chapter.

(d) A person must meet the following requirements to receive an extension of time under subsection (c):

- (1) On the date the person is called to active duty, the person must be attending a state educational institution using a tuition scholarship awarded under section 7(a) of this chapter.**
- (2) The person must provide proof of active duty by providing a copy of the person's:**
 - (A) discharge; or**

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(B) government movement orders;
to the commission at the time the person applies for renewal
of the tuition scholarship awarded under section 7(a) of this
chapter.

(3) Not later than one hundred eighty (180) days after the
person's discharge or release from active duty, the person
must resume the course of study in which the person was
enrolled when the person was called to active duty.

(e) The extension of time to which a person is entitled under
subsection (c) is equal in length to the period during which the
person was on active duty status. However, the number of
semesters for which a person may receive a tuition scholarship
awarded under section 7(a) of this chapter, including all renewals
under this section, may not exceed the number specified in section
7(b) of this chapter.

(f) A person who, at the time the person was called to active
duty:

(1) met the eligibility criteria established by:

(A) this chapter; and

(B) the commission; and

(2) had received a tuition scholarship under section 7(a) of
this chapter;

may use the extension of time under subsection (c) to renew the
tuition scholarship without meeting the requirements set forth in
sections 2(1) and 3(4) of this chapter.

(g) This section may not be construed as a restriction or
limitation on any of the rights, benefits, and protections granted to
a member of the national guard (as defined in IC 10-16-1-13) under
federal law.

SECTION 5. [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]
IC 6-3-2-20, as added by this act, applies to taxable years beginning
after December 31, 2001.

SECTION 6. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1023, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete amendments adopted by the house public policy and veterans affairs committee on January 13, 2005.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1023 as introduced and as amended by the house public policy and veterans affairs committee on January 13, 2005.)

ALDERMAN, Chair

Committee Vote: yeas 11, nays 0.

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